

So Ordered.

Dated: October 14th, 2015




John A. Rossmeissl
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re ...

SPOKANE COUNTRY CLUB,

Debtor.

Case No. **13-01959-JAR11**
Chapter 11

ORDER:

**(1) AUTHORIZING SALE OF ASSETS
TO THE KALISPEL TRIBE OF
INDIANS FREE AND CLEAR OF
LIENS, CLAIMS, ENCUMBRANCES,
AND OTHER INTERESTS
PURSUANT TO 11 U.S.C. § 363;**

**(2) AUTHORIZING COMPROMISE
OF CLAIMS AND APPROVING
SETTLEMENT AGREEMENT; AND**

**(3) SHORTENING TIME FOR
NOTICE**

THIS MATTER having come on for hearing on October 14, 2015 (the "Sale and Settlement Hearing") upon the Motion For Order: (1) Authorizing Sale Of Assets To The

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Order Authorizing Sale, Settlement and
Compromise, and Shortening Time

SCC\Pleadings.cn

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DAVIDSON BACKMAN MEDEIROS

ATTORNEYS AT LAW

A PROFESSIONAL LIMITED LIABILITY COMPANY

1550 BANK OF AMERICA FINANCIAL CENTER

601 WEST RIVERSIDE AVENUE

SPOKANE, WASHINGTON 99201

FACSIMILE: (509) 623-1660

(509) 622-8600

1 Kalispel Tribe Of Indians Free And Clear Of Liens, Claims, Encumbrances, And Other
2 Interests Pursuant To 11 U.S.C. § 363; (2) Authorizing Compromise Of Claims And
3 Approving Settlement Agreement; And (3) Shortening Time For Notice (the "Motion")
4 [Dkt. No. 1111] filed herein by the Spokane Country Club ("SCC"); and the Court finding
5 that (1) notice of the Motion and the Asset Sale¹ was appropriate and was properly served
6 on creditors and parties in interest; (2) the Asset Sale is in the best interests of creditors,
7 equity security holders, and the estate; (3) the Asset Sale was proposed in good faith, and is
8 subject to the protections of 11 U.S.C. § 363(m); and (4) the Kalispel Tribe of Indians (the
9 "Kalispel Tribe") is not an affiliate or insider of SCC; and (5) the Settlement Agreement
10 executed by and among SCC and Drusilla Hieber ("Hieber"), Laura Skaer ("Skaer"), Nancy
11 Van Noy ("Van Noy"), and Tracy Christensen n/k/a Tracy Villanueva ("Villanueva") (the
12 "Plaintiffs") (the "Settlement Agreement") was negotiated in good faith and is reasonable,
13 fair and equitable, considering (a) the probability of success in the litigation; (b) the
14 difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the
15 litigation involved, and the expense, inconvenience, and delay necessarily attending it;
16 (d) the paramount interest of the creditors and a proper deference to their reasonable views
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¹ The terms not otherwise defined herein shall have the meanings ascribed them in the Motion, the Real Estate and Asset Purchase Agreement dated September 10, 2015, or the Addendum to Real Estate and Asset Purchase Agreement dated September 23, 2015.

1 in the premises; and the Court having heard the comments of counsel and otherwise being
2 fully advised in the premises; NOW THEREFORE,

3
4 IT IS HEREBY ORDERED that the Motion is granted in its entirety.

5 IT IS FURTHER ORDERED that the Settlement Agreement is hereby approved in
6 all respects. SCC is authorized to execute and perform the Settlement Agreement, including
7 the full payment of the Plaintiffs' Claims to the extent provided for therein.
8

9 IT IS FURTHER ORDERED that the Asset Sale to the Kalispel Tribe of the real
10 property and improvements located at 2010 West Waikiki Road, Spokane, Washington,
11 Spokane, County Tax Parcel Nos. 26121.9003, 26121.9004, 26121.9005, 26121.9066,
12 26124.9025, 26124.9027, 36072.9007, 36073.9012, and legally described on the attached
13 Exhibit A, together with substantially all other assets of SCC is hereby approved pursuant to
14 the terms of this Order, the Real Estate and Asset Purchase Agreement dated September 10,
15 2015 between SCC and the Kalispel Tribe, and the Addendum to Real Estate and Asset
16 Purchase Agreement dated September 23, 2015.
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19 IT IS FURTHER ORDERED that the Asset Sale, pursuant to 11 U.S.C. § 363, shall
20 be free and clear of any lien, mortgage, pledge, security interest, easement, encroachment,
21 encumbrance, third party interest, court imposed injunction, or other restriction or limitation
22 of any kind on or in or against the Purchased Assets, or the use of the Purchased Assets, golf
23 facility or club, other than Permitted Encumbrances (collectively, the "Liens and Interests"),
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1 and will be conditioned on the entry of orders of dismissal of all trial court proceedings and
2 appellate court proceedings between SCC and [the Plaintiffs] and an order vacating the trial
3 court injunction as to any successor owner of the Purchased Assets.
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5 IT IS FURTHER ORDERED the Liens and Interests include, but are not limited to,
6 the following, with (ii) through (viii) to be vacated pursuant to the Settlement Agreement:
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- 8 (i) U.S. Bank, National Association (“U.S. Bank”) for principal of
9 \$979,461.67, interest to September 15, 2015 of \$135,045.32
10 (plus \$155.76171 per diem thereafter to Closing), attorney’s fees
11 and costs through June 30, 2015, together with additional costs,
12 in the total amount of \$121,441.57, plus additional attorney’s
13 fees and costs and additional costs to the date of Closing, and a
14 prepayment penalty of \$53,082.45 as of May 15, 2015 (subject to
15 recalculation within five (5) days of Closing), with said amounts
16 subject to change and paid in full at Closing, secured by the real
17 property and improvements of SCC, as well as certain
18 furnishings, fixtures, and equipment. *See* Dkt. No. 1076,
19 Exhibit A. U.S Bank is to provide the total payoff amount within
20 five (5) days of Closing.
21
22 (ii) Hieber, secured by a March 8, 2013 Judgment on Verdict in the
23 amount of \$185,464.00, recorded under Judgment No. 13-9-
24 01831-4, together with interest at 5.25%.
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26 (iii) Skaer, secured by a March 8, 2013 Judgment on Verdict in the
27 amount of \$34,721.00, recorded under Judgment No. 13-9-
28 01830-6, together with interest at 5.25%.
29
30 (iv) Van Noy, secured by a March 8, 2013 Judgment on Verdict in
31 the amount of \$184,299.00, recorded under Judgment No. 13-9-
32 01832-2, together with interest at 5.25%.

- 1 (v) Villanueva, secured by a March 8, 2013 Judgment on Verdict in
2 the amount of \$174,061.00, recorded under Judgment No. 13-9-
3 01833-1, together with interest at 5.25%.
- 4 (vi) The Plaintiffs, pursuant to the Findings Of Fact, Conclusions Of
5 Law And Order For Injunctive Relief And Attorney Fees entered
6 on July 23, 2014, as the prevailing party for \$706,038.00 in
7 attorney's fees and \$67,045.00 in costs, for a total of
8 \$773,083.00, together with interest at 12.0%.
- 9 (vii) The Plaintiffs, pursuant to the Findings Of Fact, Conclusions Of
10 Law And Order For Injunctive Relief And Attorney Fees entered
11 on July 23, 2014, as the prevailing party regarding enforcement of
12 the Order For Injunctive Relief.
- 13 (viii) Order Of Permanent Injunction entered in the State Court
14 Litigation on July 23, 2014.

15 IT IS FURTHER ORDERED that the Allowed Claims of U.S. Bank and the Spokane
16 County Treasurer for real and personal property taxes will be paid in full at Closing. The
17 Plaintiffs will also be paid all funds due under the Settlement Agreement at Closing, in
18 accordance with the terms and conditions thereof.

19 IT IS FURTHER ORDERED that the Kalispel Tribe will form and operate a golf
20 club utilizing the Assets (the "New Club"), with membership in the New Club to be offered,
21 with no new membership fee, to active members of SCC who are in in good standing; and to
22 resigned members of SCC who are in good standing. All members of the New Club will be
23 required to comply with the membership documents of the New Club.

24 IT IS FURTHER ORDERED that the closing of the Asset Sale shall take place no
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1 later than fifteen (15) business days following the entry of this Order; provided that the
2 implementation, operation, or effect of this Order has not been reversed, stayed, modified,
3 or amended, and provided that the time to appeal or seek review, rehearing or writ of
4 certiorari of this Order has expired and no appeal or petition for review, rehearing, or
5 certiorari has been taken or is pending, and all conditions to closing have been satisfied or
6 waived as of the Closing Date.
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9 IT IS FINALLY ORDERED that the time for notice of the Motion is shortened to
10 fourteen (14) days, including time for mailing.
11

12 /// End of Order ///

13 Presented by:

14 DAVIDSON BACKMAN MEDEIROS PLLC

15 /s/ Barry W. Davidson

16 Barry W. Davidson, WSBA No. 07908
17 Attorney for the Spokane Country Club
18 1550 Bank of America Financial Center
19 601 West Riverside Avenue
20 Spokane, Washington 99201
21 Telephone: (509) 624-4600
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